



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

TJR  
Docket No: 773-02  
11 July 2002

[REDACTED]

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This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 9 July 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marine Corps on 5 August 1981 at the age of 17. You served for nearly a year without incident but on 16 July 1982 you began a 164 day period of unauthorized absence (UA) that was not terminated until you were apprehended by civil authorities on 27 December 1982. Your record does not reflect that any administrative or disciplinary action was taken for this period of UA.

On 4 February 1983 you began another period of UA that was not terminated until 26 May 1985. Shortly thereafter, on 30 May 1985, you submitted a written request for an undesirable discharge in order to avoid trial by court-martial for the foregoing period of UA totalling 843 days. Prior to submitting this request, you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. Subsequently, your request for discharge was granted and your commanding officer was directed to issue you an other than honorable discharge. As a result of this action, you were spared the stigma of a court-martial conviction and the potential

penalties of a punitive discharge and confinement at hard labor. On 10 June 1985 you were issued an other than honorable discharge.

The Board, in its review of your entire record and application, carefully considered all mitigating factors, such as your youth and immaturity, post service conduct, and your contention that you sought other avenues so that you could be released from the service, but your requests for assistance were not acknowledged and you did not receive any counselling for your problems. Nevertheless, the Board found the evidence and materials submitted were not sufficient to warrant recharacterization of your discharge because of the lengthy period of UA for which you requested discharge to avoid trial and the earlier period of UA. The Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved since, by this action, you escaped the possibility of confinement at hard labor and a punitive discharge. Further, the Board concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and you should not be permitted to change it now. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director